

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 28, 2008

D049223 Halliburton v. Remington College-Denver Campus Inc., et al.

The judgment is reversed and the trial court is directed to deny Remington's motion for summary judgment and grant Halliburton leave to amend his complaint to add Remington to his second cause of action for defamation on a vicarious liability theory. The order denying Halliburton's motions to compel discovery is vacated and the trial court directed to consider the proper remedy for Halliburton's insufficient attempts at an informal resolution consistent with the views expressed above.

D049709 Peterson v. Remington College-Denver Campus Inc., et al.

The judgment in favor of Jose Cisneros is affirmed. The judgments in favor of Remington College-Denver Campus, Inc. and Lennor Johnson are reversed and the matter is remanded with directions that the trial court vacate its order granting Remington's and Johnson's motions for summary judgment and enter a new order granting summary adjudication of Terrance Peterson's second cause of action and denying summary adjudication as to the remaining wrongful termination, defamation, and UCL causes of action. The parties shall bear their own costs on appeal.

D052311 In re Throop on Habeas Corpus

The petition is denied.

D052799 Walker v. Superior Court of San Diego County/People

Let a writ of mandate issue directing the superior court to order case No. JCF16618 dismissed with prejudice. This opinion is final immediately as to this court. (Cal. Rules of Court, rule 8.264, subd. (b)(3).) McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

D052864 In re Kevin G., a Minor

Associate Justice Aaron, Presiding Justice McConnell and Associate Justice O'Rourke have reviewed the document entitled "Appeal for Motion to Set Aside Adoption," filed on April 9, 2008 in the San Diego Superior Court. An appeal from the October 4, 2002 order is untimely. This appeal is therefore dismissed. The superior court is directed to treat the April 9, 2008 filing as a motion to set aside October 4, 2002 order and to proceed accordingly.

D052863 Portwood v. Superior Court of San Diego County/Catalina Restaurant Group Inc., et al.

The petition for writ of mandate has been read and considered by Justices Benke, McDonald and McIntyre. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 29, 2008

D050712 People v. Hale

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Irion, J.

D050560 People v. Coleman

Judgment affirmed. Haller, J.; We Concur: McConnell, P.J., Huffman, J.

D049994 People v. Edgar

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., Haller, J.

D052274 In re Phillip M., a Juvenile

The appeal is dismissed. McDonald, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D052591 Qassimyar v. Saenz et al.

The following documents have been filed in the above-entitled cause:

Motion to dismiss appeal filed on March 26, 2008, by defendants Regents of the University of California, Sarah Minasyan, and Mary Hilfiker, and plaintiff Fatema Qassimyar's response filed on April 4, 2008;

Motion to dismiss appeal filed by defendant Layla Dipp on March 27, 2008, and plaintiff's response filed on April 14, 2008;

April 3, 2008, letter from defendant Timothy Canty in response to this court's March 28, 2008, letter;

April 4, 2008, letter from defendants Regents of the University of California, Sarah Minasyan, and Mary Hilfiker in response to this court's March 28, 2008, letter;

Plaintiff's response to this court's March 28, 2008, letter and motion to strike the letter in its entirety filed on April 14, 2008;

April 14, 2008, letter from defendants Irvin Kaufman, Children's Hospital, Blair Sadler, Scott Wolfe, Raylene Filley, Barbara Ryan, Meg Norton, Melanie Barker, J. Cross, Katherine Mayo and James Green in response to this court's March 28, 2008, letter; and

April 17, 2008, letter from defendants Jerry, Dwek, Mel Senac, Lee Harvey, Victor Lipp and Nancy Clementino in response to this court's March 28, 2008, letter.

The court has reviewed all responses to its March 28, 2008, letter regarding timeliness of plaintiff's appeal filed on February 25, 2008. The matter having been considered by Presiding Justice McConnell and Associate Justices O'Rourke and Irion, plaintiff's motion to strike the court's March 28, 2008, letter is DENIED. The appeal is DISMISSED as to defendants Nicholas Saenz, Denise Malicki, Henry Krous, Deborah Schiff, and William Roberts on the ground it is duplicative of plaintiff's appeal in Case No. D052134. The appeal is DISMISSED as untimely as to defendants Layla Dipp, Timothy Canty, Susan Duthie, H. Michael Worthen, Robert Spear, Jerry Dwek, Mel Senac, Lee Harvey, Victor Lipp, Nancy Clementino, The Regents of University of California, Sarah Minasyan, Mary Hilfiker, Irvin Kaufman, Children's Hospital, Blair Sadler, Scott Wolfe, Raylene Filley, Barbara Ryan, Meg Norton, Melanie Barker, J. Cross, Katherine Mayo and James Green. The appeal will proceed as to the January 18, 2008, order granting defendant Laura T. Martin's motion to quash service of summons. The motions to dismiss the appeal filed by The Regents of the University of California, Sarah Minasyan, and Mary Hilfiker, and by Layla Dipp are moot.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 29, 2008 (Continued)

D050785 Estate of Eugene Mae Jean Moore

The order is affirmed; motion to dismiss is denied. Each party shall bear their own costs on appeal. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D050858 Shoval et al. v. City of Poway

The order is affirmed. Respondent shall recover its costs on appeal. Nares, Acting P.J.; We Concur: McDonald, J., Irion, J.

D052113 In re Romeo L. et al., Juveniles

The judgments are affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Irion, J.

D052528 In re Chakiris on Habeas Corpus

The petition is denied.

D052914 Holland et al. v. Wachovia Securities LLC et al.

The petition for writ of supersedeas, request for stay and request for judicial notice have been read and considered by Presiding Justice McConnell and Associate Justices McDonald and Irion. The request for judicial notice is granted. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 30, 2008

D051512 Mendez v. The Superior Court of San Diego County/The People

The petition for writ of prohibition is denied. The opinion will be final as to this court 10 days after the date of filing. (Cal. Rules of Court, rule 8.264, subd. (b)(3).) CERTIFIED FOR PUBLICATION.
O'Rourke, J.; We Concur: Huffman, Acting P.J., Haller, J.

D052183 People v. Whitaker

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., Benke, J.

D051169 Krzywiec v. Krzywiec

The clerk of the court is directed to STRIKE AND RETURN the appellant's motion to consolidate the above-referenced appeal with the appeal filed April 11, 2008, because the motion was signed by the client, not the attorney of record. The appeal D051169 filed on June 21, 2007, is DISMISSED due to appellant's failure to file an opening brief.

D050263 Harvey v. The Landing Homeowners Association et al.

The opinion filed April 4, 2008, is ordered certified for publication.

D050461 People v. Guzman

The petition for rehearing is denied.

D049788 Luce, Forward, Hamilton & Scripps LLP v. Koch et al.

The judgment is affirmed. Luce Forward is entitled to costs on appeal. CERTIFIED FOR PUBLICATION McConnell, P.J.; We Concur: Haller, J., McIntyre, J.

D049748 People v. Allen

The petition for rehearing is denied. The opinion filed on April 3, 2008, is modified. There is no change in judgment.

D052867 Negrete v. Superior Court of San Diego County/Becerra et al.

The petition is denied.

D052547 In re Colaneri on Habeas Corpus

The petition is denied.

D052442 Imperial County Department of Child Support Services v. Garcia

The appeal filed January 28, 2008, is dismissed because the appellant did not timely deposit costs for preparing the record on appeal (Cal. Rules of Court, rules 8.122(c), 8.130(b), 8.140).

D052870 In re Thompson on Habeas Corpus

Because petitioner attacks his conditions of confinement and conduct of correctional officials outside this district, we deny the petition without prejudice to re-filing in the Fifth Appellate District, 2525 Capitol Street, Fresno, CA 93721.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 30, 2008 (Continued)

D052459 In re Knapp on Habeas Corpus

The petition is denied.

D052659 In re McColley on Habeas Corpus

The petition is denied.

D052450 In re Rojero on Habeas Corpus

The petition is denied.

D052333 In re Jessie O. et al., Juveniles

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 1, 2008

D049322 Brown v. Brown

Order denying petition for rehearing and modification order.

D050482 Avila v. Department of Motor Vehicles

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D052668 John S. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency.

No timely petition for writ relief has been filed. The notice of intent as to John S. is deemed to be abandoned. The case as to John S. is dismissed.

D052697 Barry B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Barry B. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D052592 In re Leonguerrero on Habeas Corpus

The petition is denied.

D052707 In re Torres on Habeas Corpus

The petition is denied.

D052594 Alpha and Omega Development v. Superior Court of San Diego County/Whillock Contracting, Inc

The petition for writ of mandate, request for judicial notice, response and opposition to request for judicial notice have been read and considered by Presiding Justice McConnell and Associate Justices McDonald and Irion. The request for judicial notice is denied. The petition is denied.

D050405 Moreno et al. v. City of Imperial Beach et al.

The judgment is affirmed. The City is entitled to costs on appeal. McConnell, P.J.; We Concur: Haller, J., McIntyre, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 2, 2008

D052128 In re Hayes on Habeas Corpus

The petition is denied without prejudice to any relief to which defendant might be entitled after the California Supreme Court decides *People v. Nguyen* (S154847).

D050759 Cintron v. Housing Authority of San Diego County

The order is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D052735 In re Vargas on Habeas Corpus

The petition is denied.

D052868 In re Roquemore on Habeas Corpus

The petition is denied without prejudice to being filed with the Court of Appeal, Fourth District, Division Two, 3389 Twelfth Street, Riverside, CA 92501.

**D052922 Somo et al. v. The Superior Court of San Diego County/Dixie College
Foundation et al.**

The petition is denied.

D052852 In re Miller on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 5, 2008

D052570 Harrison v. Bersin et al.

The court has received and considered appellant's letter dated April 15, 2008 and respondents' letter dated April 17, 2008, addressing the timeliness of appellant's notice of appeal. Appellant's argument and evidentiary showing is insufficient to rebut the presumption that respondents served their notice of ruling and attached file-stamped copy of the appealed order on appellant on December 21, 2007, the date stated in the proof of service of the notice of ruling and the date the notice and proof of service were filed. The matter having been considered by Presiding Justice McConnell and Associate Justices McDonald and Irion, the appeal is DISMISSED as untimely.

D052729 Fernando H. v. Jennifer S.

On March 26, 2008, the court proposed to unseal the record and treat the matter as confidential absent objection by the parties within 10 days. No objection was filed. The clerk of the court is directed to UNSEAL the record and treat the matter as CONFIDENTIAL. In accordance with California Rules of Court, rule 8.140, the appeal filed March 18, 2008, is DISMISSED for appellant's failure to timely designate the record (Rule 8.121(a)).

D050429 People v. Gorman

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D052622 Alejo H. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Alejo H. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review.

No timely petition for writ relief has been filed for Isabel A. The notice of intent as to Isabel A. is deemed to be abandoned. The case is dismissed.

D051535 Daugherty v. Anderson

The order granting the motion to strike is affirmed. Daugherty is awarded costs on appeal. McIntyre, J.; We Concur: Benke, Acting P.J., Aaron, J.

D050137 People v. Baltazar

The sentence is reversed and the matter is remanded for resentencing. In all other respects the judgment is affirmed. McDonald, Acting P.J.; I Concur: Aaron, J. Dissenting: Irion, J.

D052461 In re Marcel M., a Juvenile

Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 5, 2008

D052803 Jameson v. Desta

The court has received and considered plaintiff Barry Jameson's correspondence dated April 19, 2008, and defendant Taddese Desta, M.D.'s correspondence dated May 1, 2008, addressing the issue of whether the orders identified in plaintiff's notice of appeal are appealable. The matter having been read and considered by Presiding Justice McConnell and Associate Justices Haller and McIntyre, the appeal is dismissed on the ground it is taken from non-appealable orders.

D052875 In re Hunter on Habeas Corpus

The petition is denied.

D052366 In re Rankin on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 6, 2008

D050225 Bou-Malham v. Farmers Insurance Exchange et al.
The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 7, 2008

D051696 In re Jared M., a Juvenile

The orders are affirmed. McConnell, P.J.; We Concur: Benke, J., Irion, J.

D051826 In re Pedro E., a Juvenile

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Irion, J.

D049774 DM Partners v. San Dieguito Partnership et al.

The petition for rehearing is denied.

D052100 In re D.G. et al., Juveniles

The judgment terminating parental rights is reversed and the juvenile court is directed to comply with the notice provisions of ICWA. If, after proper notice and inquiry, a tribe does not intervene, the court shall reinstate the judgment. If a tribe intervenes, the court is ordered to conduct a new section 366.26 selection and implementation hearing in accordance with ICWA. (In re Francisco W. (2006) 139 Cal.App.4th 695, 705-706; In re Jonathan D. (2001) 92 Cal.App.4th 105, 111-112.) Aaron, J.; We Concur: McConnell, P.J., Benke, J.

D050233 People v. Benavides

The judgment is reversed. Huffman, J.; We Concur: Benke, Acting P.J., Haller, J.

D052119 In re Danny C., a Juvenile

The orders are affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Aaron, J.

**D052537 Christopher C. v. Superior Court of San Diego County/San Diego County
Health and Human Services Agency**

The petition is denied. The request for stay is denied. McDonald, J.; We Concur: Haller, Acting P.J., Aaron, J.

D052268 In re Jesus I., a Juvenile

The appeals are dismissed. McIntyre, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D051451 People v. Corona

D052742 In re Corona on Habeas Corpus

The pending petition for writ of habeas corpus, *In re Peter Corona*, D052742, is consolidated with the pending appeal, *People v. Corona*, D051451, for disposition.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 7, 2008 (Continued)

D051451 People v. Corona

D052742 In re Corona on Habeas Corpus

(Consolidated) The judgment is affirmed. The petition is denied. Irion, J.; We Concur: Haller, Acting P.J., McDonald, J.

D051342 People v. Colbert

The judgment is affirmed. Irion, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D048930 People v. Alsayad

The convictions in counts 3, 6, 9, 13, 16 and 19 are reversed. In all other respects the judgment is affirmed. Benke, Acting P.J.; We Concur: McDonald, J., Irion, J.

D051011 Royal Indemnity Company et al. v. Otay Land Company et al.

The opinion filed on April 23, 2008 is hereby modified as follows: Footnote 7 on page 22 of the opinion is deleted in its entirety. There is no change in judgment.

D052074 In re Nicolas O., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 8, 2008

D052380 In re Rodriguez on Habeas Corpus

The petition is denied.

D048456 People v. Varghese

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.;
We Concur: McDonald, J., Irion, J.

D052412 In re Nichols on Habeas Corpus

The petition is denied.

D052894 Lee v. Superior Court of San Diego County/Aaron Brother, Inc.

The petition for writ of mandate and request for judicial notice have been read and considered by Justices Huffman, McIntyre, and Aaron. The request for judicial notice is denied. The petition is denied.

D052474 In re Nguyen on Habeas Corpus

The petition for a writ of habeas corpus has been read and considered by Justices Huffman, Haller and McIntyre.

On July 16, 2006, Ninh Nguyen was found guilty of possessing an inmate-manufactured weapon at Calipatria State Prison. He was not assessed forfeiture of custody credits because administrative time constraints were not met. Nguyen does not dispute he possessed the object, but argues the object did not meet the definition of a weapon because it did not have an obvious sharp tip. The reporting correctional officer described the object as a "weapon measuring approximately seven and one half inches long, one inch (1") in diameter made from melted plastic sharpened to a point on one end"

Inmates may not possess "any instrument or weapon of the kind commonly known as a blackjack, slingshot, billy, sandclub, sandbag, or metal knuckles, any explosive substance, or fixed ammunition, any dirk or dagger or sharp instrument, any pistol, revolver, or other firearm, or any tear gas or tear gas weapon." (Pen. Code, § 4502, subd. (a).) The description given by the reporting officer and the photocopy of the weapon (Rules Violation Rep., July 16, 2006, log No. 07-04-C-098RR, p. Cal-FC4-04-07-0459) are some evidence to support the finding Nguyen possessed a sharp instrument capable of inflicting serious injury or death.

The petition is denied.

D052413 In re Cordeiro on Habeas Corpus

The petition is denied.

D052946 In re Devaughn H., a Juvenile

Jarika J.'s notice of appeal filed April 30, 2008, from the October 29, 2007, judgment is untimely. The case is dismissed.

D052377 Stacie T. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Haller, Acting P.J.; We Concur: McDonald, J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 8, 2008 (Continued)

D051956 In re Anna B., a Juvenile

The judgment and order are affirmed. Haller, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D049244 People v. v. Groce

The judgment is conditionally reversed and the matter remanded with directions to allow the defendant, within 30 days of the remittitur, to again present his new trial motion. If the trial court grants the new trial motion, it shall set the case for retrial. If the court denies the new trial motion, or if defendant fails to present his new trial motion in timely fashion, the court shall reinstate the judgment.

If the judgment is reinstated, the remittitur issued in this case is automatically recalled and this appeal is reinstated. (See Cal. Rules of Court, rules 8.272 (c)(2), 8.366.) In the event there is a denial of the new trial motion and a timely appeal from this ruling, the two appeals are consolidated. Haller, J., We Concur: McConnell P.J., McIntyre, J.

D051610 People v. Phyfiher Jr.

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D048294 People v. Whitmore

The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Nares, J.

D049944 Kelly-McCall v. Vons Companies Inc., et al.

The judgment is reversed insofar as the superior court summarily adjudicated Kelly-McCall's sixth cause of action for retaliation and her request for punitive damages. In all other respects, the judgment is affirmed. Each party is to bear its own costs on appeal. McIntyre, J.; We Concur: McConnell P.J., Huffman, J.

D050533 People v. Alfaro

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., Haller, J.

D052775 Mt. Woodson Golf Partners v. Superior Court of San Diego County/Banks

The petition is denied.

D050167 Duckor Spradling v. Blackburn et al.

The petition for rehearing is denied.

D049152 People v. Ziskin

The petition for rehearing is denied. It is ordered that the opinion filed April 23, 2008, is modified. No change in judgment.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 8, 2008 (Continued)

D050297 People v. Black

The judgment of the trial court is affirmed. Aaron, J.; We Concur: McConnell, P.J., Nares, J.

D050882 People v. Janelle

The order is affirmed. Nares, Acting P.J.; We Concur: McDonald, J., Aaron, J.

D052898 City of San Marcos v. Superior Court of San Diego County/Flanigan et al.

The petition is denied.

D050851 In re Duran on Habeas Corpus

The petition for writ of habeas corpus is denied. Huffman, Acting P.J.; I Concur: Haller, J.;
I Dissent: McDonald, J. (opinion)

D051008 Yvonne A. v. David L.

Order affirmed. Appellant to bear respondent's costs on appeal. Haller, J.; We Concur: Nares,
Acting P.J., Irion, J.

D052411 In re Grytness on Habeas Corpus

The petition is denied.

D052475 In re Sanchez on Habeas Corpus

The petition is denied.

**D052820 Macias v. Superior Court of San Diego County/Apex Contracting &
Restoration, Inc.**

The petition is denied.

D052895 In re Brooks on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 9, 2008

D051766 In re Angel W., a Juvenile

The orders are affirmed. Irion, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D050404 In re Marriage of Hess

The order is affirmed. The Department and Elizabeth are each awarded their respective costs on appeal. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

D050807 Ihrig v. Interinsurance Exchange of the Automobile Club

The judgment is affirmed. Interinsurance shall recover its costs on appeal. Nares, Acting P.J.; We Concur: McDonald, J., Aaron, J.

D051512 Mendez v. The Superior Court of San Diego County/The People

The petition for rehearing is denied.

D051996 People v. Segura

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D049980 Jaramillo v. State Board for Geologists and Geophysicists

The request for publication is denied.

D052420 In re Fady C., a Juvenile

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D051936 Sapien-Melchor et al. v. State of California

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244©(2).)

D052487 In re Ballard on Habeas Corpus

The petition is denied.

D052596 In re Nguyen on Habeas Corpus

The petition is denied.

D052956 In re Duran on Habeas Corpus

The petition is denied.

D052989 Johnson v. Superior Court of San Diego County/Burnell

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 9, 2008 (Continued)

D052409 In re Kelson on Habeas Corpus

The petition is denied.

D052980 People v. Andres

The court notes the criminal proceedings were suspended under Welfare and Institutions Code section 3051, thus the notice of appeal is premature. The appeal is dismissed without prejudice.